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Kevin Smith

CLERK
of the supreme court,
court of appeals and
tax court

FRIEDLANDER, Judge

Lillian Tying appeals the trial court's order compelling her to produce a copy of her Revocable Living Trust (Trust) pursuant to a discovery request filed by Jerry Sanders (Husband) in a dissolution proceeding initiated by Barbara Sanders (Wife).

We affirm.

Lillian Tying is Wife's mother and the widow of Eugene Tying. Both Lillian and Eugene prepared revocable living trusts as part of their estate planning. On January 12, 2007, Wife filed a petition for dissolution of her marriage to Husband. Shortly thereafter, Wife filed a request for permanent spousal maintenance.¹ In preparation for arguments on the issue of spousal maintenance, Husband, on or about May 2, 2007, issued a Third Party Request for Production and Subpoena Duces Tecum upon Tying asking her to produce Eugene's trust document as well as her Trust. According to Husband, the basis for his request was to discover what income, if any, would come into the hands of Wife and/or the parties' minor children as a result of their beneficiary status under the trusts.

On August 17, 2007, Tying filed a Motion to Quash, or in the Alternative, Motion for Protective Order and for Security against Damages. Husband filed a response to the motion to quash and a Motion to Compel Production of the requested trust documents. On June 12, 2008, the trial court held a hearing on Tying's motion to quash and entered its ruling thereon. The trial court's order provided:

1. [Tying's] Motion to Quash is denied as to the trust documents themselves.

¹ Indiana does not recognize an award of permanent spousal maintenance. From Wife's request, it is unclear what type of spousal maintenance she is seeking. *See* Ind. Code Ann. § 31-15-7-2 (West, Premise through 2008 2nd Regular Sess.).

2. The Protective Order is granted such that the Husband and/or his counsel shall not disclose the contents of the trusts to any third parties (other than experts retained in this cause) without Court approval.

3. The Motion to Quash is granted with regard to the request for financial assets. Said assets shall not be disclosed at this point. If the Husband believes after review of the trust documents themselves that the Husband, the Wife or the parties' children have a vested interest in the proceeds of either the Lillian Tying [sic] Trust or the Eugene Tying Trust, then the Husband may thereafter request an additional hearing on the issue of financial disclosure.

4. The Husband or his counsel may contact the Wife's counsel with regard to this Order and may provide the Wife's counsel with the trust documents disclosed herein.

5. Intervenor, Lillian Tying, is ordered to produce the Lillian Tying Trust and Eugene Tying Trust documents themselves to counsel for the Husband under this Order by June 18, 2008.

Appellant's Appendix at 23-24. Thereafter, Tying provided Husband with a copy of Eugene's trust document.² On June 19, 2008, Tying filed a Motion for Partial Stay Pending Appeal regarding production of her Trust document, which the trial court granted. Tying filed her Notice of Interlocutory Appeal on July 14, 2008. *See* Ind. Appellate Rule 14(A)(3) (interlocutory appeal of right taken from order compelling the delivery of any documents).

On appeal, Tying argues that the trial court abused its discretion in ordering her to turn over a copy of her Trust document to Husband pursuant to Husband's discovery request because such Trust document is irrelevant to the dissolution action between Husband and Wife. We begin by noting our standard of review. A trial court is afforded broad discretion in ruling on issues of discovery, and we will reverse a trial court's ruling only when the appealing party can show an abuse of that discretion. *Allstate Ins. Co. v. Scrogan*, 851

² Tying acknowledges that Eugene's trust became non-revocable upon his death and that it was therefore relevant to the extent any of the trust assets were assigned to Wife and/or the parties' children. According to Tying, however, Eugene's trust document shows that she was the sole beneficiary of Eugene's trust assets.

N.E.2d 317 (Ind. Ct. App. 2006). That is, a ruling will be reversed only when the trial court has reached a conclusion against the logic and natural inferences to be drawn from the facts and circumstances before the court. *Id.*

The relevance of discovery requests is primarily governed by Ind. Trial Rule 26(B)(1), which states:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject-matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

In addition, generally, Indiana's discovery rules were designed to allow a liberal discovery process that would provide parties with information essential to the litigation of the issues and to promote settlement. *Allstate Ins. Co. v. Scrogan*, 851 N.E.2d 317. On appeal, the trial court's ruling is cloaked with a strong presumption of correctness. *Brown v. Dobbs*, 691 N.E.2d 907 (Ind. Ct. App. 1998).

Tyring maintains that she is the grantor, trustee, and current beneficiary under the terms of her Trust and that Wife has no vested interest therein. She further asserts that it is a revocable trust that can be annulled, rescinded, or canceled, and therefore, by its very definition, Wife has no vested interest therein.³ Tyring maintains that because her Trust does

³ In support of her argument that her Trust document is irrelevant to the dissolution proceeding between Husband and Wife, Tyring cites authority standing for the proposition that property cannot be included in the marital estate nor its value included in the property division if the parties do not have a vested interest therein.

not convey a vested interest in any of the Trust assets to Wife, the Trust document is irrelevant to any matters in the dissolution action. Tying also asserts that her Trust document contains her plan for distribution of her assets upon her death, a matter which she believes she has a right to keep private.

Here, we have nothing other than Tying's representations that the Trust is a revocable trust and that Wife has no vested interest in any of the Trust assets. A review of Tying's Trust document is the only way to determine what interest, if any, Wife may have in the Trust assets. Wife's vested interest in the Trust assets, if any, is relevant to matters in the dissolution action, specifically with respect to Wife's request for spousal maintenance. To protect Tying's interest in keeping the contents of the Trust document confidential, the trial court granted a protective order such that Husband and his counsel were ordered to not disclose the contents of Tying's Trust document to any third parties, other than experts retained for purposes of this action, without the court's approval. If, after review of the Trust documents themselves, Husband determines that Wife may have a vested interest therein, Husband must request another hearing to seek the court's permission to gather additional information relating to Tying's Trust. In light of Indiana's liberal discovery process, we conclude the trial court did not abuse its discretion in ordering Tying to turn over her Trust documents to Husband.

See Loeb v. Loeb, 301 N.E.2d 349 (Ind. 1973) (holding that husband's interest in family business, as granted through trust provisions, could not be included in marital estate and was not subject to property division, because such interest was subject to defeasance); *Dall v. Dall*, 681 N.E.2d 718 (Ind. Ct. App. 1997) (because neither party to marriage had a vested interest in marital residence, neither the residence nor the value of the property could be included in property division).

Judgment affirmed.

MAY, J., and BRADFORD, J., concur